

# Interpretation Memo

NYSE

New York  
Stock Exchange, Inc.

Member Firm Regulation

20 Broad Street  
New York, NY 10005

Number 89-11  
October 9, 1989

PLEASE ROUTE TO FINANCIAL AND OPERATIONS OFFICER/PARTNER  
AND COMPLIANCE AND MARGIN DEPARTMENTS

TO: MEMBERS, MEMBER ORGANIZATIONS AND HANDBOOK SUBSCRIBERS  
SUBJECT: UPDATE OF INTERPRETATION HANDBOOK FOR SEC RULE 15c3-3

We have received a letter from the SEC providing guidelines under which commercial paper, which is not issued in the form of physical certificates or notes but is carried in book entry form by the issuer, may be considered to be in a control location. In this instance the Division of Market Regulation has determined that it would be prudent not to require approval of each issuer on a case by case basis. A copy of the letter is attached, as well as updated Interpretation Handbook pages relative to these provisions.

In addition other handbook pages have been amended to reflect interpretations to subparagraph (e)(2) which were discussed in Interpretation Memo No. 89-10 dated August 23, 1989. Two new interpretations: /01 Substitution of Firm Bank Loans for Customer Bank Loans and /02 Circumvention of the Rule's Requirement have been added to page 546.

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RETAIN ALL INTERPRETATION/INFORMATION MEMOS FOR FUTURE REFERENCE

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DIVISION OF  
MARKET REGULATION

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

September 5, 1989

Edward Kwalwasser  
Senior Vice President  
New York Stock Exchange, Inc.  
11 Wall Street  
New York, New York 10005

Thomas Cassella  
Vice President  
National Association of  
Securities Dealers, Inc.  
1735 K Street, N.W.  
Washington, D.C. 20006

Dear Messrs. Kwalwasser and Cassella:

We have been asked by broker-dealers on several occasions to designate, pursuant to paragraph (c)(7) of Commission Rule 15c3-3 (17 C.F.R. §240.15c3-3), issuers of commercial paper as control locations for the commercial paper that they issue. Specifically, these broker-dealers have requested that issuers of commercial paper be allowed to issue their commercial paper in the name of the broker-dealer or some other nominee and to hold the commercial paper in book-entry form on its books and records.

Paragraph (b) of Rule 15c3-3, the Commission's customer protection rule, requires a broker-dealer to obtain promptly and thereafter to maintain the physical possession or control of all fully-paid and excess margin securities carried by the broker-dealer for the account of customers. Paragraphs (c)(1) through (6) of the rule sets forth six specific "locations" where securities, although not in the physical possession of the broker-dealer, will be deemed to be within its control. Since issuers of commercial paper do not fall within any of the six specific control "locations" set forth in paragraph (c), a broker-dealer desiring to maintain its customers' commercial paper in book-entry form with the issuer must apply, pursuant to paragraph (c)(7), to the Commission to have the issuer designated as a control location.

In light of the fact that several broker-dealers have applied to have various commercial paper issuers designated as control locations, the Division has determined that it would be prudent not to approve each application on a case-by-case basis. Instead, the Division will neither raise any question

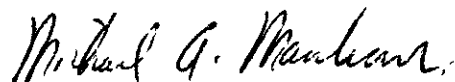


nor recommend any action if a broker-dealer treats an issuer of book-entry commercial paper as a control location for purposes of Rule 15c3-3 under the following circumstances:

- (1) the delivery to the broker-dealer of certificates representing ownership of the commercial paper does not require the payment of money or value, and the issuer has acknowledged in writing that all commercial paper it holds for the broker-dealer is for the exclusive benefit of the broker-dealer's customers and is not subject to any right, charge, security interest, lien, or claim of any kind in favor of the issuer or any person claiming through the issuer;
- (2) the commercial paper has a maturity at the time of issuance not exceeding nine months, exclusive of days of grace (the maturity of any renewal thereof is likewise limited);
- (3) either the commercial paper is rated in one of the three highest categories by at least two of the nationally recognized statistical rating organizations or other commercial paper issued by the issuer is so rated;
- (4) the broker-dealer carries the commercial paper "long" in the appropriate customer account;
- (5) the broker-dealer reflects the commercial paper of each issuer separately in its securities books and records maintained pursuant to Commission Rule 17a-3 (17 C.F.R. §240.17a-3) and includes the commercial paper in its quarterly count made pursuant to Commission Rule 17a-13 (17 C.F.R. §240.17a-13); and
- (6) the broker-dealer is not aware of any substantial problem, either of an operational or a financial nature, the issuer may be experiencing that could endanger the commercial paper of its customers.

We ask that you call this matter to the attention of your member organizations.

Sincerely,



Michael A. Macchiaroli  
Assistant Director